

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SCOTT A. MCKINNON,)	CASE NO. 4:21-CV-1878
)	
Petitioner,)	JUDGE CHARLES E. FLEMING
)	
vs.)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
KEITH FOLEY, WARDEN,)	
)	OPINION AND ORDER ADOPTING
Respondent.)	MAGISTRATE’S REPORT AND
)	RECOMMENDATION

On September 30, 2021, Petitioner Scott A. McKinnon (“Petitioner”) filed a Petition for a Writ of Habeas Corpus (“Petition”), pursuant to 28 U.S.C. § 2254. (ECF No. 1). On February 23, 2022, Petitioner filed a motion to dismiss. (ECF No. 9). On September 12, 2022, Magistrate Judge Thomas M. Parker submitted a Report and Recommendation (“R&R”), recommending that the Court grant Petitioner’s motion and dismiss the Petition without prejudice. (ECF No. 12).

Fed. R. Civ. P. 72(b)(2) provides that the parties may object to an R&R within fourteen (14) days after service. The R&R gave the parties notice of the 14-day time limit for filing objections. (ECF No. 12, PageID 662). On September 12, 2022, a copy of the R&R was mailed to Petitioner at Grafton Correctional Institution. As a result, any objections by the parties were due by September 26, 2022. As of September 29, 2022, neither party filed any objections.

Under the Federal Magistrates Act, a district court must conduct a *de novo* review of the portions of the R&R to which the parties objected. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). Absent objection, a district court may adopt an R&R without further review. *See Peretz v. US*, 501 U.S. 923, 939 (1991); *Thomas v. Arn*, 474 U.S. 140, 141–42, 149–50 (1985).

Accordingly, the Court **ADOPTS** Magistrate Judge Parker's Report and Recommendation, incorporates it fully herein by reference, **GRANTS** Petitioner's motion to dismiss (ECF No. 9), and **DISMISSES** the petition for a writ of habeas corpus without prejudice. The Court also finds that there is no basis upon which to issue, and will not issue, a certificate of appealability. Fed. R. App. P. 22(b); 28 U.S.C. § 2253(c).

IT IS SO ORDERED.

Date: September 29, 2022

A handwritten signature in cursive script, reading "Charles E. Fleming".

CHARLES E. FLEMING
UNITED STATES DISTRICT JUDGE